

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

JONATHON VIRGIL DAVIS,)
Petitioner,)
v.) Case No. 1:19-cv-01086-KOB-SGC
PATRICE RICHIE, *et al.*,)
Respondents.)

MEMORANDUM OPINION

The magistrate judge entered a report on June 22, 2021, recommending the court deny Jonathan Virgil Davis's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 8). The magistrate judge further recommended denial of a certificate of appealability. (*Id.* at 33). On July 13, 2021, counsel for Davis filed objections. (Doc. 11).

Davis has numbered his objections 1 through 14. Except for one, each objection begins with "The Magistrate Judge erred . . ." and consists of a single, conclusory sentence. (Doc. 11 at 1-3). Section IV of the report and recommendation plainly states:

Objections should *specifically identify* all findings of fact and recommendations to which objection is made and the *specific basis* for objecting. Objections also should *specifically identify* all claims

contained in the petition that the report and recommendation fails to address. Objections should not contain new allegations, present additional evidence, or repeat legal arguments.

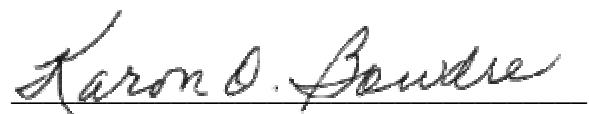
(Doc. 8 at 34) (emphasis added). Davis has failed to provide any basis for 13 of his objections. Accordingly, the court overrules Davis's conclusory objections.

In objection number 9, Davis states: "The Magistrate Judge's reliance on *Griffin v. California*, 380 U.S. 609, 615 (1965) is misplaced, in that the Court in *Griffin* actually found that the prosecutor did impermissibly comment on the defendant's right not to testify." (Doc. 11 at 3). The report and recommendation quoted the general rule as stated in *Griffin*: "the Fifth Amendment . . . forbids either comment by the prosecution on the accused's silence or instructions by the court that such silence is evidence of such guilt." (See Doc. 8 at 29) (quoting *Griffin*, 380 U.S. at 615). The report went on to explain the rule is not absolute, citing the Eleventh Circuit's standard for evaluating a *Griffin* claim. (Doc. 8 at 29–31). Finally, the report correctly analyzed Davis's Fifth Amendment claim under the applicable standard. (Doc. 8 at 31–32). The court finds no error in the report and recommendation concerning this issue.

Therefore, after consideration of the entire record in this case, Davis's objections are **OVERRULED**. The court **ADOPTS** the magistrate judge's report, and **ACCEPTS** her recommendations. A certificate of appealability will be denied.

The court will enter a separate Final Judgment.

DONE and ORDERED this 20th day of August, 2021.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE